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FROM
AMEMBASSY BUENOS AIRES

CLASSIFICATION
~~CONFIDENTIAL~~

E.O. 11652: GDS
TAGS: SHUM, AR
SUBJECT: TIMERMAN CASE UPDATE

ACTION: SECSTATE WASHDC
INFO : USCINCSO QUARRY HTS CZ

~~CONFIDENTIAL~~ BUENOS AIRES 7042

REF: A) BUENOS AIRES 5646, B) BUENOS AIRES 6074

SUMMARY: There still has been no formal response by the GOA to the July Supreme Court decision declaring Timerman's detention under the Poder Ejecutivo Nacional illegal. Now there are indications that the government is seeking an extra-legal way to resolve the "Timerman problem". END SUMMARY.

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1. To date neither the Presidency nor the Ministry of Interior has acknowledged the July 20 Supreme Court decision which held that there was no reasonable basis for the former editor of LA OPINION to be detained by the Poder Ejecutivo Nacional (PEN). (See Reftel A.) Timerman's lawyer has filed a legal motion requesting the immediate freedom of his client and plans to present

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CLASSIFICATION

50152-101

OPTIONAL FORM 152(H)
(Formerly FS-413(H))
January 1975
Dept of State

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another motion during the week of September 11 requesting the judicial power to order Timerman's release.

2. Timerman's legal strategy has been to proceed step by step, pursuing his legal remedies to minimize the confrontations his efforts could occasion between the Executive and the Judiciary. Timerman's successful appeal to the Supreme Court focussed entirely on the unreasonableness of his "Poder Ejecutivo Nacional" -- PEN -- detention. His brief and subsequent pleadings explicitly did not address the specific issues of his liberty or the Acta Institucional. Now with a favorable Supreme Court decision in hand attesting to the illegality of his PEN detention, Timerman is seeking his immediate freedom, and challenging his detention under the Acta Institucional.

3. To date the Argentine government's only response has been to suggest to Timerman informally that if he applied for the right of option to leave Argentina, it would probably be granted. According to reports from the family, Timerman flatly rejected this suggestion as he considers his PEN detention to be illegal and refuses to legitimize it by requesting the right of option.

4. Minister of the Interior Harguindeguy in late

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August mentioned to visiting American newsmen that the government of Argentina planned to resolve the Timerman case by expelling him to Russia, Poland, Israel or any other country which would receive him. Harguindeguy told the newsmen flatly that Timerman had been stripped of his citizenship, and so he could be expelled. Timerman's lawyer however confirmed our information that neither the November 10, 1977 decree against him, nor any subsequent decree has removed Timerman's citizenship through application of Section 2 (b) of the Acta Institucional. Timerman therefore believes that he is still an Argentine citizen.

5. We have inquired about Harguindeguy's comments with the Timerman's son and attorney. Both indicate that Timerman remains extremely anxious to leave Argentina, but is not prepared to do this in any manner which would legitimize his illegal detention. Both agreed that an expulsion order would be "acceptable".

6. EMBASSY COMMENT: Although Harguindeguy's description of the Timerman case was technically incorrect, we believe that it reflects at least the Ministry of Interior's position regarding the resolution of the "Timerman case". Under 2 (b) of the Acta Institucional, the President or the Junta is empowered to

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remove the citizenship of naturalized Argentine citizen charged under the Acta. Once that occurred, the President or the Ministry of the Interior could legally expel the "denaturalized" citizen from Argentina. It would be a neat and legal solution which has no relation to Timerman's PEN detention nor to the Supreme Court's decision. END EMBASSY COMMENT.

CASTRO

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